



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

J. MANN  
GENERAL

Honorable John D. Reed, Commissioner  
Bureau of Labor Statistics  
Austin, Texas

Dear Sir:

Opinion No. O-5701

Re: Would it be a violation of  
Article 1573, Penal Code,  
for the newspapers in cities  
and towns of over fifteen  
thousand population to em-  
ploy at certain weekly wages  
boys under the age of fif-  
teen years for the purpose  
of distributing newspapers?

We are in receipt of your letter requesting the opin-  
ion of this department upon the above stated question.

Article 1573 of the Penal Code provides:

"Any person, or any agent or employee of any  
person, firm or corporation who shall hereafter em-  
ploy any child under the age of fifteen years to  
labor in or about any factory, mill, workshop, laun-  
dry, or in messenger service in towns and cities of  
more than fifteen thousand population, according to  
the preceding Federal census, shall be fined not less  
than Twenty-five Dollars nor more than Two Hundred  
Dollars, or be imprisoned in jail for not more than  
sixty days."

It is quite evident that the distribution of news-  
papers is not within the purview of any of the prohibitive em-  
ployments as appear in the above quoted article unless it be  
that of messenger service in towns or cities of more than fif-  
teen thousand population.

Neither the courts nor the Legislature has elucidat-  
ed upon or rendered a definition for "messenger service" as  
used in the article under discussion. Webster's New Internation-  
al Dictionary, Second Edition, defines "messenger" as "one who

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bears a message or does an errand." Although it could be argued that a boy who delivers newspapers does in a general manner bear a message pertaining to the news of the day, we do not believe it is of the kind of messenger service intended to come within the scope of Article 1573. In other words, a "message" to come within the purview of "messenger service" must be a communication of a personal nature such as a telegram or note.

At most the delivery of newspapers is a distribution of the merchandise of a publishing company. The court in the case of Associated Indemnity Corporation v. Wilson, 21 S. W. (2d) 314, writ of error refused, held that the employment of children under fifteen years of age to deliver packages and merchandise of the employer is not interdicted by Article 1573.

It is therefore the opinion of this department that your question be answered in the negative.

Very truly yours

ATTORNEY GENERAL OF TEXAS

*Harold C. Mann*

By

*Robert O. Koch*

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ROK:db  
F.C.C.

